

HOUSE BILL NO. 389

INTRODUCED BY M. THANE, E. KERR-CARPENTER, K. SULLIVAN, C. POPE, J. LYNCH, D. HARVEY

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A CONTINUATION OF HEALTH CARE COVERAGE LAW FOR MONTANA; ALLOWING EMPLOYEES OF SMALL EMPLOYERS TO ELECT CONTINUATION OF INSURANCE COVERAGE ON TERMINATION OF EMPLOYMENT; ESTABLISHING THE DURATION OF CONTINUED COVERAGE; ESTABLISHING NOTIFICATION AND PAYMENT REQUIREMENTS; AMENDING SECTION 33-31-111, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Continuation of coverage under certain circumstances --**

**exceptions.** (1) A health benefit plan issued under this part for an employer with 19 or fewer employees must include a provision allowing a covered employee whose employment is terminated to elect to continue coverage for the employee and the employee's eligible dependents, subject to all of the terms and conditions of the plan and the requirements of [sections 2 and 3] and this section.

(2) Except as provided in subsection (4), coverage may continue until the earlier of:

- (a) 18 months after the date of termination of employment; or
- (b) the date on which the employee or a dependent becomes eligible for other coverage.

(3) An employee may elect continuation of coverage if the employee:

- (a) has been continuously insured under the health benefit plan during the entire 6 months prior to the date of termination of employment;
- (b) has paid any required employee contribution through the date of termination of employment;
- (c) has notified the employer in writing within 30 days of the date of termination of employment of the employee's intent to continue coverage; and

(d) after the date of termination of employment, pays on a monthly basis in advance the amount of the premium established in accordance with [section 2].

1 (4) (a) An employee or a dependent may continue coverage for up to 29 months from the date of  
2 the employee's termination of employment if the individual or dependent becomes disabled within the first 60  
3 days of the continuation of coverage.

4 (b) A dependent may elect to continue coverage for up to 36 months from the date of the first of  
5 any of the following events to occur after the continuation of coverage has begun:

6 (i) the death of the employee, if the dependent's coverage terminates on the death of the  
7 employee;

8 (ii) the employee's eligibility for coverage under medicare; or

9 (iii) divorce or legal separation of the employee.

10 (5) Continuation of coverage is not available to the employee or a dependent who is:

11 (a) covered by medicare; or

12 (b) covered by any other insured or uninsured arrangement that provides major medical coverage.

13 (6) This section does not apply to accident-only or disease-specific policies.

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15 **NEW SECTION. Section 2. Continuation of coverage -- notification and payment requirements.**

16 (1) An employer shall notify an employee in writing of the right of continued coverage as soon as possible and  
17 no later than 10 days following the date of termination of employment. The notification must include:

18 (a) the monthly premium amount and due date;

19 (b) information on how and to whom the premium must be paid; and

20 (c) notice that coverage will terminate if payments are not made as required.

21 (2) An employee electing continuation of coverage shall pay the premium to the employer or the  
22 third-party administrator of the health benefit plan as specified on the notification. The amount of premium  
23 required by the carrier or employer may not exceed:

24 (a) 102% of the group rate for the insurance being continued during the first 18 months of  
25 coverage; and

26 (b) 150% of the group rate for the insurance being continued for longer than 18 months as allowed  
27 under [section 1].

28 (3) A notification of the continuation of coverage privilege must be included in each certificate of

1 coverage.

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3 **NEW SECTION. Section 3. Early termination of continued coverage.** (1) Continuation of coverage

4 terminates earlier than the time periods specified in [section 1] if:

5 (a) the employee fails to make timely payment of a required premium;

6 (b) the health benefit plan is terminated by the carrier; or

7 (c) the employer terminates participation under the health benefit plan for all employees.

8 (2) If a health benefit plan is terminated by the carrier or employer but is replaced by similar

9 coverage under another health benefit plan, the employee may become covered under the new plan for the

10 balance of the period that the employee would have remained covered under the prior plan.

11 (3) Continuation of coverage is not required to include dental or vision care benefits unless the

12 health benefit plan included the benefits and the employee requests the benefits.

13

14 **Section 4.** Section 33-31-111, MCA, is amended to read:

15 **"33-31-111. Statutory construction and relationship to other laws.** (1) Except as otherwise

16 provided in this chapter, the insurance or health service corporation laws do not apply to a health maintenance

17 organization authorized to transact business under this chapter. This provision does not apply to an insurer or

18 health service corporation licensed and regulated pursuant to the insurance or health service corporation laws

19 of this state except with respect to its health maintenance organization activities authorized and regulated

20 pursuant to this chapter.

21 (2) Solicitation of enrollees by a health maintenance organization granted a certificate of authority

22 or its representatives is not a violation of any law relating to solicitation or advertising by health professionals.

23 (3) A health maintenance organization authorized under this chapter is not practicing medicine and

24 is exempt from Title 37, chapter 3, relating to the practice of medicine.

25 (4) This chapter does not exempt a health maintenance organization from the applicable certificate

26 of need requirements under Title 50, chapter 5, parts 1 and 3.

27 (5) This section does not exempt a health maintenance organization from the prohibition of

28 pecuniary interest under 33-3-308 or the material transaction disclosure requirements under 33-3-701 through

1 33-3-704. A health maintenance organization must be considered an insurer for the purposes of 33-3-308 and  
2 33-3-701 through 33-3-704.

3 (6) This section does not exempt a health maintenance organization from:

4 (a) prohibitions against interference with certain communications as provided under Title 33,  
5 chapter 1, part 8;

6 (b) the provisions of Title 33, chapter 22, parts 7 and 19;

7 (c) the requirements of 33-22-134 and 33-22-135;

8 (d) network adequacy and quality assurance requirements provided under chapter 36; or

9 (e) the requirements of Title 33, chapter 18, part 9.

10 (7) Other chapters and provisions of this title apply to health maintenance organizations as follows:

11 Title 33, chapter 1, parts 6, 12, and 13; 33-2-1114; 33-2-1211 and 33-2-1212; Title 33, chapter 2, parts 13, 19,  
12 23, and 24; 33-3-401; 33-3-422; 33-3-431; Title 33, chapter 3, part 6; Title 33, chapter 10; Title 33, chapter 12;  
13 33-15-308; Title 33, chapter 17; Title 33, chapter 19; 33-22-107; 33-22-128; 33-22-129; 33-22-131; 33-22-136  
14 through 33-22-139; 33-22-141 and 33-22-142; 33-22-152 and 33-22-153; 33-22-156 through 33-22-159; 33-22-  
15 180; 33-22-244; 33-22-246 and 33-22-247; 33-22-514 and 33-22-515; 33-22-521; 33-22-523 and 33-22-524;  
16 33-22-526; [sections 1 through 3]; and Title 33, chapter 32."

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18 **NEW SECTION. Section 5. Codification instruction.** [Sections 1 through 3] are intended to be  
19 codified as an integral part of Title 33, chapter 22, part 18, and the provisions of Title 33, chapter 22, part 18,  
20 apply to [sections 1 through 3].

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22 **NEW SECTION. Section 6. Effective date.** [This act] is effective January 1, 2025.

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24 **NEW SECTION. Section 7. Applicability.** [This act] applies to plan years beginning on or after  
25 January 1, 2025.

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